UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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JAN KONOPCA, Plaintiff, -against- CITIBANK, N.A., Defendant.	Civil No: **COMPLAINT FOR VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT** **DEMAND FOR JURY TRIAL**

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Plaintiff JAN KONOPCA ("Plaintiff"), by and through his attorneys, MARCUS ZELMAN, LLC, as and for his Complaint against the Defendant CITIBANK, N.A., (hereinafter referred to as "Defendant"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violations under Title 47 of the United States Code, §227 commonly known as the Telephone Consumer Protection Act (TCPA). .

PARTIES

2. Plaintiff is a resident of the State of New Jersey, County of Monmouth, residing in Long Branch, New Jersey.

3. Respondent Citibank, N.A. is a national banking association with its principal place of business at 399 Park Ave, New York, New York 10043.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to 28 USC §1331.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

6. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "5" herein with the same force and effect as if the same were set forth at length herein.
7. On information and belief, on a date better known to Defendant, Defendant began its campaign of communicating with the Plaintiff via the use of an automated telephone dialing system and prerecorded messages throughout the past four years by calling his cell phone number of (732)222-2222 numerous times seeking a third party.
8. Defendant began placing autodialed calls and prerecorded messages to the Plaintiff's cell phone on or about July 24, 2011, and continued to do so until the present time.
9. Plaintiff is the sole subscriber of the Sprint account bearing the phone number of (732)222-2222, and has been the sole subscriber of that account at all times relevant hereto.
10. Plaintiff is the sole party financially responsible for the payment of the Sprint account bearing the phone number of (732)222-2222, and has been the sole party financially responsible for that account at all times relevant hereto.
11. Plaintiff is the regular and sole user of the cellular phone number (732)222-2222, and has been the regular and sole user of that phone number at all times relevant

hereto.

12. The Defendant called from numerous phone numbers, including but not limited to 800-782-7756, 800-388-2200, 800-733-1116 and 877-437-1987, all of which numbers belongs to Defendant.

13. Plaintiff confirmed that the phone number of 800-782-7756 belongs to the Defendant by calling that phone number and being greeted with a recorded voice stating "Thank you for calling Citibank".

14. Plaintiff confirmed that the phone numbers of 800-388-2200, 800-733-1116 and 877-437-1987 belongs to the Defendant by calling each of those phone numbers and being greeted with a recorded voice stating "Thank you for calling Citicards".

15. Defendant would further leave prerecorded messages on the Plaintiff's cellular phone, on numerous occasions during the past four years, including on September 15, 2011, September 22, 2011, October 3, 2011 and October 4, 2011.

16. The Defendant's prerecorded messages left on the Plaintiff's cell phone would typically state in a computerized voice:

Hello, please hold on the line for the next available agent from Citicard with an important message for you regarding your Macy's account.

17. Immediately subsequent to the above computerized message being left, a human representative would come on the line and can be heard on the voicemail, stating "Hello?" or "Hello, may I speak with Matthew? Hello?" or "Matthew, hello?".

18. Another of the Defendant's prerecorded messages left on the Plaintiff's cell phone would typically state in a computerized voice:

"This is Citicard calling about your Macy's account. We are sorry we could not be speaking personally. We appreciate your busy schedule. Please call us at

1(800)782-7756 between the hours of 8:00 a.m. to Midnight, Monday through Saturday, 10:00 a.m. to 7:00 p.m. on Sunday Eastern Standard Time. This is not a sales call. Any representative can assist you. Again that number is 1(800)782-7756. We look forward to your call. Thank you."

19. Yet another of the Defendant's prerecorded messages left on the Plaintiff's cell phone would typically state in a computerized voice:

"Hello, please hold on the line for the next available agent from Citicard with an important message for you regarding your Sears account."

20. Immediately subsequent to the above computerized message being left, a human representative would come on the line and can be heard on the voicemail, stating "Hello, may I speak to Plashanta(phonetic)? Hello, may I speak to Plashanta Fitzcole (phonetic)? or "May I speak to Plashanta Fitzcole? Hello?"

21. The Plaintiff never gave the Defendant his prior, express permission to call his cell phone via the use of an automated telephone dialing system. Upon information and belief, Plaintiff has never provided his cell phone number to Defendant or had any credit card, store card or other business relationship with the Defendant, with Macy's or with Sears.

22. Plaintiff had no wish to be contacted on his cell phone via the use of an autodialer, and expressly directed Defendant to stop calling his cell phone number on numerous occasions.

23. By placing auto-dialed calls and prerecorded messages to the Plaintiff's cell phone, the Defendant violated 47 USC §227(b)(A)(iii) which prohibits using any automated telephone dialing system or an artificial prerecorded voice to any telephone number assigned to a cellular telephone service when calling to the plaintiff's cell phone.

24. The Defendant therefore willfully violated the TCPA numerous times by placing calls to the Plaintiff's cell phone without his prior, express consent.

FIRST CAUSE OF ACTION
(Violations of the TCPA)

25. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "24" herein with the same force and effect as if the same were set forth at length herein.
26. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).
27. As a result of Defendant's violations of the TCPA, Plaintiff has been damaged and is entitled to damages in accordance with the TCPA.

DEMAND FOR TRIAL BY JURY

28. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant as follows:

A. For mandatory statutory damages of $500 each provided and pursuant to 47 USC §227(c)(2)(G)(3)(B), for all calls placed to the Plaintiff's cellular phone;

B. Plaintiff requests enhanced trebled damages of $1,500 to be awarded to the Plaintiff per call, in accordance with the TCPA, for the Defendant's willful violations of the TCPA;

C. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: July 24, 2015

Respectfully submitted,

MARCUS ZELMAN, LLC

By: /s/ Yitzchak Zelman
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